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**BEFORE THE STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD**

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)	
In re petition of)	PETITION NO: _____
)	
Ken Berry, and)	
)	POINTS AND AUTHORITIES FOR
Willits Citizens for Environmental)	PETITION FOR REVIEW
Justice)	WITH REQUEST FOR STAY
)	
Petitioners)	
_____)	

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BACKGROUND¹

1. Various sites in Mendocino County, California are contaminated with waste from the former Remco Hydraulics Facility in Willits, California (Remco). The Remco facility operated from 1940 through 1995 under several owners. From 1963 until 1995, the facility applied chrome plating to hydraulic cylinders.

2. The Page Property is also called >Page Pits= and the >Old Willits Dump=. Page Pits began operation in the 1940s as the Willits Municipal Dump. From the 1960's until 1974, chromic acid and other waste from the Remco operation was disposed of at Page Pits, first by mixing with other waste and later by disposal into pits dug for that purpose. Other solvents and waste from Remco have been dumped at Page Pits along with chromic acid.

¹ Background information is taken from the packet for the 8/9/06 R1WB meeting and other official descriptions. This information is not specifically relevant to the issues on appeal, but is included to give context and make this document more self-contained.

3. The Willits Environmental Remediation Trust (WERT) was created by a Consent Decree (CD) in a lawsuit brought by the City of Willits against the former owners of the Remco site in 1997. The final Order governing the CD was issued in the United States District Court for Northern California on December 22, 2000 (Case No. C-96-0283SI). The WERT was created to remediate the contamination produced by the operation of the main Remco facility and all other areas where waste from the Remco facility was disposed. The WERT is ordered to conduct the remediation in accordance with the National Contingency Plan (NCP), which in turn requires cooperation with local authorities provided such regulation does not contradict the provisions of the NCP.

4. The California Department of Toxic Substances Control (DTSC) is tasked with oversight of remediation efforts on former industrial sites. Because most of the existing contamination was believed to be in the groundwater beneath the former factory site, oversight was transferred to the California Regional Water Quality Control Board, North Coast (R1WB).

5. In 1998, the R1WB issued Cleanup and Abatement Order (CAO) 98-59. That Order was superceded by CAO 99-55, which was issued by R1WB on August 13, 1999. CAO 98-59 and CAO 99-55 authorize the cleanup of the Remco site and associated disposal areas by R1WB and is the mechanism by which the WERT cooperates with local authorities as required by the NCP. The project authorized by CAO 99-55 is herein called "CAO 99-55-REMCO". This project may also be called the overall Remco cleanup. It should be accompanied by a Master Environmental Impact Report (MEIR) because all other projects associated with Remco and the WERT are subordinate to CAO 99-55.

6. There is no environmental document for the project authorized by CAO 99-55 because Categorical Exemptions (CE) were unlawfully used.

7. On August 9, 2006, the R1WB considered a separate project authorized by Resolution No. R1-2006-0082 and Order No. R1-2006-0067. This project is for a trench to intercept the ground and surface water emanating from a closed landfill so that it may be extracted and treated so that the polluted water does not reach the intermittent stream (Darby Creek), a tributary to the Eel River, which is protected by a Basin Plan. A Negative Declaration (ND) was approved as the environmental document for CEQA compliance. This project is called ATRENCH@ herein, and includes treatment of the intercepted contaminated water.

8. As explained in detail below, the project description for the TRENCH project includes reference to the overall cleanup of the Page Property. The overall project is herein called the APAGE@ project. There is no environmental document because the R1WB has failed to act first on the overall PAGE cleanup project before addressing individual components, namely the TRENCH project.

9. There is a hierarchy of projects: CAO 99-55-REMCO, PAGE, and TRENCH. PAGE is the overall remediation for the closed landfill on the Page Property. TRENCH is an interim project to intercept a major source of contamination, but not all of the actionable discharges. Therefore, TRENCH is contained in PAGE. The relationship of TRENCH to PAGE is the same as PAGE to CAO 99-55-REMCO. As explained below, the R1WB acted unlawfully when it acted on the TRENCH project by approving an ND when there was no analysis of the overall Page Property project, herein called PAGE. Similarly, the environmental document used for PAGE needs to be compared to and incorporated into the one for CAO 99-55-REMCO so that cumulative impacts can be known and studied, but there isn=t one to compare or amend.

10. If an MEIR were available, or being prepared, for PAGE, an ND could be appropriate for TRENCH. This is explained below and these project names are used where appropriate to clarify which project is being discussed. CEQA requires that MEIRs be prepared for the PAGE and CAO 99-55-REMCO projects, as discussed herein.

STANDARD ON REVIEW

12. The Standard on Review for the use of a ND or Mitigated Negative Declaration (MND) is whether the whole record establishes a fair argument that there is the possibility of a significant adverse environmental impact. This is a very low standard. If the record shows the Agency failed to proceed according to law, this standard is met. *Azusa Land Reclamation Company, Inc. v. Main San Gabriel Basin Watermaster et al.* (1997) 52 Ca.App.4th 1165. *Azusa* is included as Attachment C.

SUMMARY

11. As stated in the Petition for Review, the following are the main issues in dispute as Petitioners understand them at this time². Letters are assigned to each issue and correspond to the headings below.

A. R1WB staff misrepresented the nature of the project.

B. The PAGE overall cleanup is being divided into subprojects in order to avoid considering the cumulative impacts of the overall project and/or to avoid performing an adequate analysis of the potential impacts.

² Petitioners allege that the R1WB did not act according to law with respect to CEQA compliance. PRC 21167.6(e)(10) defines documents to be included in the record of proceedings for litigation. Petitioners reserve the right to augment the information in this Petition for Review. Petitioners also reserve the right to use different arguments and cite additional authorities than included here. The Petition for Review and Points and Authorities are the best judgment of Petitioners at the time of filing.

C. The use of a Negative Declaration (ND) for the groundwater extraction and discharge system (TRENCH) is inappropriate because the project has the potential to cause a significant adverse impact on the environment that was not analyzed and was not mitigated in the ND.

D. The change of conditions of Public Resources Code (PRC) Section 21166 now apply to Cleanup and Abatement Order (CAO) No. 99-55 and require that the R1WB or SWRCB prepare an Environmental Impact Report before making any further decisions concerning the project approved by CAO 99-55. CAO 99-55 authorizes the Willits Environmental Remediation Trust (WERT) to carry out the requirements of the Order entered by Judge Susan Illston (Northern District of California, Case No. C-96-0283SI) on December 22, 2000 (Consent Decree, CD).

A. MISREPRESENTATION OF PROJECT

13. Mr. David Evans testified on behalf of R1WB staff at the August 9, 2006 meeting. Mr. Evans told the Board that the Page Pits and overall Remco projects were not related. That conclusion is directly contradicted by the record, namely Resolution No. R1-2006-0082 and Order CAO 99-55.

14. Page Pits is the kind of project that is described in CAO 99-55 in conditions No. 8 and No. 9. These are reproduced below and may be found on page 11 of CAO 99-55.

8. Submit by December 1, 1999, for concurrence by the Executive Officer a supplemental plan and schedule to assess all potential source areas (*including any offsite disposal areas*) and to fully define the extent of soil and groundwater contamination emanating from such source areas.

9. Implement the supplemental plan described in No. 8, above, in accordance with the schedule upon concurrence of the Executive Officer with the plan and schedule.

15. In particular, the italicized portion of condition No. 8 describes the Page Property, which includes a closed landfill in which wastes from the Remco facility were deposited, according to the packet prepared by staff for the August 9, 2006 meeting.

16. Finding No. 3 in Resolution R1-2006-0082 describes the WERT as reproduced below and may be found on page No. 1 of Resolution R1-2006-0082.

3. The WERT is an independent instrumentality of the United States District Court for the Northern District of California, as established pursuant to the Amended Final Consent Decree, Final Order, and Final Judgment. An Order Establishing the Willits Environmental Remediation Trust, entered by Judge Susan Illston (N.D. Ca., Case No. C-96-0283SI) on December 22, 2000 (Consent Decree). The WERT was established in part to completely, timely and cost-effectively conduct all investigatory and remedial work at the Remco Facility at 934 South Main Street in Willits, California (Remco Site), and surrounding areas in and around the City of Willits where hazardous substances associated with the Remco Facility operations are located. The Page Property is a location where Remco wastes are located, and the WERT is investigating and cleaning up those wastes.

17 In particular, the last sentence says *“The Page Property is a location where Remco wastes are located,”* and the WERT is investigating and cleaning up those wastes. Therefore the description of the Page Property project matches condition Nos. 8 and 9 in CAO 99-55, which authorizes the overall Remco cleanup.

18. For the purposes of CEQA, CAO 99-55 and Resolution R1-2006-0082 define the overall Remco cleanup project and the Page Property project, respectively, because they approve the environmental document required. In the case of Resolution R1-2006-0082, the environmental document is a Negative Declaration (ND). In the case of CAO 99-55, it is Finding No. 20, which cites Categorical Exemptions (CE) as the reason no ND or Environmental Impact Report (EIR) was prepared.

19. The Order approving the overall Remco cleanup project (CAO 99-55) describes any offsite disposal areas[@]. The legislation approving the TRENCH project describes itself as a location where Remco wastes are located[@]. Therefore CAO 99-55 and Resolution R1-2006-0082 describe portions of the same project. Specifically, the Page Property projects are subordinate to CAO 99-55.

20. The relationship between the TRENCH project and the overall cleanup (PAGE project) is required to be handled in accordance with CEQA by preparing a Master Environmental Impact Report (MEIR) for the overall project. It may then be possible to use NDs as the environmental documents for subordinate projects described in the MEIR as they are undertaken. The TRENCH project is not described in a MEIR and therefore must be fully evaluated on its own. The R1WB staff misrepresented the Findings when they testified that the TRENCH project was separate from the overall PAGE project. The TRENCH project does not encompass the project authorized by CAO 99-55, but the CAO 99-55 project encompasses the whole of the PAGE and TRENCH project. They are the same project and the R1WB misrepresented this fact. The impact of this misrepresentation is that the cumulative impacts of the CAO 99-55-REMCO, PAGE, and TRENCH projects were not analyzed as required by CEQA.

21. Misrepresenting the factual data in the Record is a failure to proceed according to law. An oath was administered prior to taking any testimony. Failure to proceed according to law is a compulsory circumstance requiring Courts to set aside the use of an ND and require that an EIR be prepared.

22. This does not exhaust the actions taken by the R1WB that were unlawful within the meaning of CEQA.

B- DIVISION OF PAGE PROPERTY PROJECT

23. Considering only the Page Property project authorized by Resolution No. R1-2006-0082 and Order No. R1-2006-0067 (and not considering the CAO 99-55-REMCO project), the R1WB has not proceeded according to law because the cumulative impacts of the project were not considered. Resolution No. R1-2006-0082 authorized the TRENCH project, as explained above. On page 1 of the Executive Officer's Summary Report for Agenda Item No. 3 at the August 9, 2006 meeting of the R1WB (TRENCH project), a significant potential impact on the environment is identified, namely 237,000 parts per billion of hexavalent chromium (Cr+6") that have been detected in the groundwater in pits on the project site. The proposed ND does not address the potential impacts of that contaminated water leaching into the groundwater.

24. Therefore, the ND approved by Resolution No. R1-2006-0082 is inadequate for the overall PAGE cleanup project. An EIR is required to be prepared for the overall PAGE cleanup because the R1WB has documented a potential significant adverse impact, namely the presence of Cr+6 at levels of 237,000 parts per billion.

25. Under CEQA, a project is the whole of an action (CCR Title 14, _15378). The R1WB has not considered the whole Page Property cleanup project. The TRENCH project is contained in the PAGE project. The TRENCH project is that part of the overall cleanup (PAGE) that intercepts some of the contaminated ground water and provides treatment. TRENCH is not the whole of PAGE. CEQA forbids a project from being divided that way because that process avoids considering the overall project impacts before the details. The overall project must also be first considered first CERCLA.

26. According to the packet prepared for the August 9, 2006 meeting, the Page Property project has at least two phases. One phase is the installation of a trench to intercept and extract contaminated groundwater for treatment before it reaches Darby Creek, an intermittent tributary of the Eel River. The packet also describes contamination not addressed by the TRENCH project and the packet contains the statement "The Page Property is a location where Remco wastes are located, and the WERT is investigating and cleaning up those wastes" in Finding No. 3 of Resolution No. R1-2006-0082. In particular, the 237,000 parts per billion of Cr+6 identified in the packet, but not addressed by the TRENCH project, require at least one subsequent phase.

27. In addition to CCR 14 _15378, case law forbids the division of a project in order to avoid producing an environmental document for the whole project. *Laurel Heights Improvement Association v. Regents of the University of California* (A Laurel Heights I@) (1988) 47 Cal. 3rd 376, 395-396 held an EIR inadequate when it failed to consider a second phase to a project or the whole of the project.

28. The R1WB staff testified to reasons why the TRENCH project is independent of other projects with respect to environmental effects. In brief, the TRENCH project intercepts much of the known flow of contaminated water. The distance between the source in the closed landfill and the intermittent stream Darby Creek is short and the TRENCH project is a reasonable interim action. Petitioners testified to the inadequacy of the ND to address known significant adverse effects (as explained below under heading C).

29. Petitioners also testified to the need to prepare an EIR for both the project approved by CAO 99-55 and the project approved by Resolution No. R1-2006-0082. Subsequently, Petitioners understood that there are two projects associated with the Page property, not one. Because there is only one action by the R1WB, that action must be on the overall project (PAGE) in order to avoid dividing the project to avoid considering impacts (supra). However, once the R1WB begins preparing a MEIR for the overall (PAGE) project, it would be appropriate to approve the TRENCH project using an ND. Resolution No. R1-2006-0082 is not satisfactory under any circumstances, but it would need only minor modifications to approve an ND for the same constructions, provided that an MEIR were being prepared for the PAGE project.

30. As explained above, the TRENCH project has the same relationship to the PAGE project as the PAGE project does to the CAO 99-55-REMCO project, the overall Remco cleanup for which the WERT was created. There is no environmental document for the overall Remco cleanup, CAO 99-55-REMCO because the R1WB unlawfully used Categorical Exemptions when CAO 99-55 was approved. Therefore the preparation of the PAGE EIR will require information that should be in the CAO 99-55 EIR.

31. It is not necessary to prepare an EIR for the overall CAO 99-55-REMCO project in order to prepare an MEIR for the overall Page property project (PAGE). However, if the information is analyzed in an EIR for the PAGE project, more alternatives will have to be considered. Therefore it is recommended, in the interest of efficiency, that an MEIR for the CAO 99-55-REMCO project be prepared along with the PAGE MEIR.

C. USE OF ND INAPPROPRIATE FOR PAGE PROPERTY PROJECT

32. Considering only the Page Property project (TRENCH) specifically addressed and authorized by Resolution R1-2006-0082 and Order No. R1-2006-0067, the R1WB has not proceeded according to law because the cumulative impacts of the project were not considered and potentially significant adverse impacts were identified but not mitigated. On page 1 of the Executive Officer=s Summary Report for Agenda Item No. 3 at the August 9, 2006 meeting of the R1WB, a significant potential impact on the environment is identified, namely 237,000 parts per billion of hexavalent chromium ($\text{A}Cr+6$) detected in the groundwater in pits on the project site. The proposed ND does not address the potential impacts of that contaminated water leaching into the groundwater.

33. The existence of groundwater with 237,000 parts per billion of Cr+6 is a potential threat to human health and the environment. Therefore there is a potential significant adverse effect of the project that is not identified in the CEQA Checklist (Appendix G) contained in the Initial Study (IS) for the TRENCH project (and included in the packet for the August 9, 2006 meeting). Therefore it is not appropriate to use an ND for the project.

34. Petitioners cited a deposition by Gerald Dunbar at the Public Hearing held on August 9, 2006 for the TRENCH project. That deposition described orange colored water on the far side of Darby Creek (relative to the closed landfill) during the time when water runs off the hillside where the closed landfill is located. Although untested, Cr+6 contamination would color the water orange. It is not natural for groundwater seeping to the surface to be colored orange anywhere in the vicinity of Willits or the Page Property. Therefore there is credible evidence that Cr+6 is migrating across Darby Creek. Because that would be impossible for surface water, it must be via groundwater beneath Darby Creek. That implies fractures in the bedrock, which in turn implies that contamination from the closed landfill may be traveling in all directions, not just to the west, where the TRENCH project is located. This has the same significance as the measurement of 237,000 parts per billion of Cr+6, namely showing that an ND is not an appropriate environmental document for the PP project because there are potentially significant adverse impacts that are not addressed in the ND.

35. The staff report for the August 9, 2006 meeting indicates that groundwater flows to the southwest. The TRENCH project is located to the west. Therefore the TRENCH project cannot intercept all of the contaminated groundwater emanating from the closed landfill.

D. ENVIRONMENTAL DOCUMENT REQUIRED FOR CAO 99-55

36. In 1998, the R1WB issued Cleanup and Abatement Order (CAO) 98-59. Government Code (GC) _65962.5(c) requires the SWRCB to submit to the Secretary for Environmental Protection a list of certain projects. In particular, (GC) _65962.5(c)(3) requires the listing of all cleanup and abatement orders issued after January 1, 1986. This list is referred to as the ACortese List@ herein.

37. CAO 98-59 was superceded by CAO 99-55, which was issued by R1WB on August 13, 1999. CAO 99-55 cited two Categorical Exemptions (CE) as the reason why no environmental analysis was performed prior to approval. The CE cited are CCR 14 15308 and 15321³. However, CCR 14, 15300.2(e) prohibits the use of any CE, including 15308 and 15321, for projects involving sites listed on the Cortese List.

38. The approval of CAO 99-55 was unlawful because CE were used to exempt a project listed on the Cortese List, and CEQA specifically disallows that use of CE. Reference to the particular CE used is also defective because neither CE may be used for projects requiring construction, but even if no construction was required to remediate all of the Remco site and off-site areas, which could make the use of the particular CE appropriate under certain circumstances, the use of any CE is prohibited by CCR 14, 15300.2(e) .

³Both of the CE cited may not be used where construction is involved and therefore were inappropriately applied to the CAO 99-55 project.

39. Public Resources Code (PRC) 21166 determines the scope in time during which a public agency may rely on a previously approved environmental document to analyze a proposed project pursuant to CEQA:

21166. When an environmental impact report has been prepared for a project pursuant to this division, no subsequent or supplemental environmental impact report shall be required by the lead agency or by any responsible agency, unless one or more of the following events occurs:

(a) Substantial changes are proposed in the project which will require major revisions of the environmental impact report.

(b) Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report.

(c) New information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available.

40. PRC _21166(a), (b), and (c) are conditions. If none of the conditions is true, then the public agency shall not be required to prepare an Environmental Impact Report (EIR). PRC _21167 sets out various time limits for bringing action for noncompliance with CEQA. Once the appropriate time has passed, PRC _21166 allows the public agency to rely on a previous CEQA action, provided *none* of the three conditions is true.

41. If any of the conditions PRC _21166(a), (b), or (c) are true, then PRC _21166 does not prohibit requiring the public agency to prepare an EIR or supplemental EIR. The conditions under which a public agency is required to prepare an environmental document are one of the issues in this Petition for Review (see heading C above). Because no CE may be used, the choice of an environmental document is limited to an EIR or ND. No option to supplement a previous EIR or ND is available because no analysis has been made using the independent judgement of the R1WB.

42. Condition PRC _21166(a) is true. Condition (a) says: "Substantial changes are proposed in the project which will require major revisions of the environmental impact report". In testimony during the August 9, 2006 Public Hearing, R1WB staff (falsely) asserted that the projects approved by CAO 99-55 and Resolution No. R1-2006-0082 were entirely different. The project descriptions in the record show that the two projects are the same (see heading A above). However, the fact that R1WB staff believe that the Page Property project is different from CAO 99-55 must mean that CAO 99-55 is substantially changed by the inclusion of the Page project. Obviously, the PAGE project was not considered in the environmental analysis for the CAO 99-55-REMCO project.

43. All defects in CEQA compliance are timely because action was taken on Resolution No. R1-2006-0082 and Order No. R1-2006-0067. The limitations in PRC _21167 apply to the date a decision is made pursuant to CEQA. There are no limitations that exempt noncompliance with CEQA after any time. The limitation is only on the ability to set aside a decision through Judicial review. The decision in question was made on August 9, 2006. It was faulty because, among other things, it did not consider the whole of the project, which is CAO 99-55-REMCO.

44. As explained above, in order to proceed with any discretionary approval subordinate to CAO 99-55 will require that CAO 99-55 be brought into compliance with CEQA in order to analyze the cumulative impacts⁴.

⁴ In practice, a new CAO must be approved for the overall project. To prevent confusion, "CAO 99-55-REMCO" is used as a synonym for the project CAO 99-55 approved, even though the earlier CAO 98-59

addressed the same project and other Orders may do so in the future.

43. The specific construction described in the staff report for Resolution No. R1-2006-0082 and Order No. R1-2006-0067, herein called the TRENCH project, cannot proceed because it is not possible to comply with CEQA concerning the overall Page Property project (herein called the PAGE project) and concerning the overall Remco cleanup project (CAO 99-55), because both the PAGE and CAO 99-55 projects are being divided to avoid considering their cumulative environmental impacts. However, if the R1WB were making a good faith effort to prepare the necessary MEIRs for the CAO 99-55 and PAGE projects, it would be appropriate for the R1WB to use the environmental information already prepared for the TRENCH project to approve a Mitigated Negative Declaration (MND).

46. There is a public benefit in making a reasonable assumption about the ultimate outcome of the PAGE project MEIR. It is not lawful to ignore the PAGE project entirely, which is what R1WB has done by the way Resolution No. R1-2006-0082 and Order No. R1-2006-0067 are structured and have been processed. When the preparation of a MEIR for the PAGE project has begun, the TRENCH project could proceed using an ND, before the MEIR was finally approved.

45. There was no testimony that the TRENCH project was harmful or was an inferior alternative. The objections raised have to do with the consideration of cumulative impacts and otherwise proceeding according to law.

48. Condition PRC _21166(b) is true for the CAO 99-55-REMCO project. Condition (b) says: ASubstantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report.@ Since CAO 99-55 was approved, additional, contradictory information has been developed for the Remco site in Willits. That contradictory evidence is in the nature of the groundwater movement and emission of volatile organic compounds (VOCs) from the site. This information is in the record of proceedings for the CAO 99-55-REMCO project. It is part of the record of proceeding for judicial review according to PRC 21167.6(e)(10), without regard for the evidence rules used by the SWRCB for its review of Resolution No. R1-2006-0082 and Order No. R1-2006-0067.

48. Condition PRC _21166(c) is true for the CAO 99-55-REMCO project. Condition (c) says: ANew information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available.@ The information cited above for condition (b) was not known. Most of the physical data available for the Remco site has been developed subsequent to the approval of CAO 99-55. This is the first time the R1WB has formally decided a CEQA issue since September 2003, which was before the changes noted above were discovered. This is the appropriate time to raise all of the procedural defects in previous decisions.

49. Because all three of the conditions of PRC _21166 are now true, the statute no longer exempts the Agency from reconsidering the previous environmental approval for the CAO 99-55-REMCO project. Therefore, in order to make any further discretionary decisions concerning the project authorized by CAO 99-55, an environmental document must be prepared. As explained above, that document must take the form of a MEIR for the CAO 99-55-REMCO project, as well as other documents that may be required.

CONCLUSION

50. Petitioners recommend the following actions. Petitioners believe these actions will fully correct all of the defects in the CAO 99-55 project and its subordinates. Petitioners also believe that similar defects will be avoided in the future. These recommendations are phrased in terms of the SWRCB referring the matter back to R1WB because of the organizational resources and experience of the R1WB staff with the environmental issues associated with CAO 99-55-REMCO. However, these recommendations apply to whatever Agency complies with CEQA for the CAO 99-55-REMCO project and related ones.

1. The R1WB form a Technical Advisory Committee (TAC) for the CAO 99-55-REMCO project and all subordinate projects consisting of a representative of the R1WB, WERT, Responsible Agencies, Petitioner Berry, and Petitioner Willits Citizens for Environmental Justice (WCEJ). The representatives of the WERT, Petitioner Berry, and Petitioner WCEJ shall be non-voting, shall not be compensated for their time, travel, or expenses, and shall be provided copies of all reports and correspondence concerning the CAO 99-55 project and all of its subordinate projects in the same way as official members. The TAC will advise R1WB staff concerning the CAO 99-55-REMCO project and related ones.

2. Begin preparation of an MEIR on the project approved by CAO 99-55.

3. Begin preparation of an MEIR on the overall Page Property project, which may be a part of the of CAO 99-55 MEIR.

4. Proceed with the project approved by Resolution No. R1-2006-0082 and Order No. R1-2006-0067 using a mitigated ND, similar to the ND approved at the August 9, 2006 Public Hearing, but conditioned on the ultimate findings of the MEIR on the overall Page Property and CAO 99-55 projects be substantially as indicated in the IS for the TRENCH project.

Dated: September 8, 2006.

/s/ Ken Berry

Willits Citizens for Environmental Justice